

**STATEMENT OF EMERGENCY**  
**922 KAR 2:100E**

This emergency administrative regulation is necessary in accordance with KRS 13A.190(1)(a)2 and 3 to ensure implementation and enforcement of 2017 Ky Acts ch. 135 and the Child Care and Development Fund Block Grant (CCDF) as reauthorized by Public Law 114-183. In addition, the emergency administrative regulation supports more comprehensive background checks of child care staff members, improved access to emergency medications for children in care, and reflects assessment of child care provider standards in accordance with the Red Tape Reduction effort, enhancing provider operations and better protecting the health, safety, and welfare of children in child care settings in accordance with KRS 13A.190(1)(a)1. An ordinary administrative regulation would not allow the agency sufficient time to effect background checks to comply with state and federal mandates, preserve federal award, and better protect children's health, safety, and welfare in child care settings. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

MATTHEW G. BEVIN, Governor  
SCOTT W. BRINKMAN, Acting Secretary

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Department for Community Based Services**  
**Division of Child Care**  
**(Emergency Amendment)**

**922 KAR 2:100E. Certification of Family Child-Care Homes.**

RELATES TO: KRS Chapter 13B, 158.030~~[17.165, 17.500 — 17.580]~~, 186.020, 189.125, 194A.050(1), 199.011~~(3)~~~~[(2)]~~, (4), 199.894~~(1)~~, (5), 199.895, 199.896(18), 199.897, 199.898, 199.8982, 214.010, 214.036, 311.646, 314.01(5), 527.070(1), 600.020, 620.020(8), 620.030, 16 C.F.R. 1219, 1220, 1221, 45 C.F.R. 98.2, 49 C.F.R. 571.213, 20 U.S.C. 6081-6084, 42 U.S.C. 9857-9858g

STATUTORY AUTHORITY: KRS 194A.050(1), 199.8982(1)(f)

EFFECTIVE: February 14, 2018

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.8982(1)(f) requires the cabinet to promulgate administrative regulations to establish standards for the issuance, monitoring, release of information, renewal, denial, revocation, and suspension of a certificate of operation, and to impose minimum staff-to-child ratios for a family child-care home. The statute authorizes the cabinet to establish minimum safety requirements for operation of a certified family child-care home. This administrative regulation establishes minimum requirements intended to protect the health, safety, and welfare of children cared for by certified family child-care home providers.

Section 1. Definitions. (1)~~["Address check" means a cabinet search of the Sex Offender Registry to determine if a person's residence is a known address of a registered sex offender.~~

(2) "Assistant" means a person:

- (a) Who meets the requirements listed in Section 2(6) and Section 10(6), (7), and (8)~~], and (9)]~~ of this administrative regulation; and
- (b) Whose work is either paid or unpaid.
- ~~(2)(3)~~ "Cabinet" is defined by the KRS 199.011(3) and 199.894(1)~~[(2)]~~.
- ~~(3)(4)~~ "Child" is defined by KRS 199.011(4).
- ~~(4)(5)~~ "Corporal physical discipline" is defined by KRS 199.896(18).
- ~~(5)(6)~~ "Developmentally appropriate" means suitable for the specific age range and abilities of a child.
- ~~(6)(7)~~ "Family child-care home" is defined by KRS 199.894(5).
- ~~(7)(8)~~ "Health professional" means a person currently licensed as a:
- (a) Physician;
- (b) ~~Physician~~~~Physician's~~ assistant;
- (c) Advanced practice registered nurse~~or practitioner~~; or
- (d) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician.
- ~~(8)(9)~~ "Home" means the private primary residence of the certified family child-care home provider and contiguous property.
- ~~(9)(10)~~ "Infant" means a child who is less than twelve (12) months of age.
- ~~(10)(11)~~ "Parent" is defined by 45 C.F.R. 98.2.
- ~~(11)(12)~~ "Parental or family participation" means a family child-care home's provision of information or inclusion of a child's parent in the child-care home's activities such as:
- (a) Distribution of a newsletter;
- (b) Distribution of a program calendar;
- (c) A conference between the provider and the parent; or
- (d) Other activity designed to engage a parent in the program's activities.
- ~~(12)(13)~~ "Pediatric abusive head trauma" is defined by KRS 620.020(8).
- ~~(13)(14)~~ "Premises" means the building and contiguous property in which child care is certified.
- ~~(14)(15)~~ "Preschool-age" means a child who is older than a toddler and younger than school-age.
- ~~(15)(16)~~ "Provider" means an owner, operator, or person who:
- (a) Cares for a child in the provider's own home;
- (b) Is not required to be licensed under 922 KAR 2:090; and
- (c) Meets the requirements of Section 2 of this administrative regulation.
- ~~(16)(17)~~ "Related" means having one (1) of the following relationships with the provider:
- (a) Child;
- (b) Grandchild;
- (c) Niece;
- (d) Nephew;
- (e) Sibling;
- (f) Step-child; or
- (g) Child in legal custody of the provider.
- ~~(17)(18)~~ "School-age child" means a child who meets the age requirements of KRS 158.030 or who attends~~attending~~ kindergarten, elementary, or secondary education.
- ~~(18)(19)~~ "~~Sex Offender Registry~~" ~~means the registration system for adults who have committed sex crimes or crimes against minors established in accordance with KRS 17.500 through 17.580.~~
- ~~(20)~~ "Toddler" means a child between the age of twelve (12) months and thirty-six~~(36)~~~~twenty four (24)~~ months.

Section 2. Certification Process. (1) The cabinet or its designee shall be responsible for certifying a family child-care home.

(2) An applicant for certification shall:

(a) Show proof by photo identification or birth certificate that the individual is at least eighteen (18) years of age;

(b) Obtain commercial liability insurance of at least \$50,000 per occurrence; and

(c) Submit within ninety (90) days of initiation of the application process:

1. A completed OIG-DRCC-03, Initial Certification Application for Family Child-Care Home;

2. A nonrefundable certification fee pursuant to KRS 199.8982(1)(b);

3. Written documentation from the local authority showing the child-care home is in compliance with local zoning requirements;

4. Documentation of the requirements of KRS 199.8982(1)(a)1 through 3 and 5;

5. Background checks completed in accordance with 922 KAR 2:280; and

6. A physician's statement documenting that the family child-care home provider's health is satisfactory for operation of a family child-care home, including that the provider is free of active tuberculosis~~[A DCC-157, Certified Family Child-Care Home Central Registry Check, to complete:~~

~~a. A child abuse or neglect check using the central registry in accordance with 922 KAR 1:470; and~~

~~b. An address check of the Sex Offender Registry;~~

~~6. A completed criminal records check required by KRS 17.165(5); and~~

~~7. A criminal records check for any previous state of residence completed once if:~~

~~a. The applicant resided outside the state of Kentucky in the last five (5) years; and~~

~~b. No criminal records check has been completed for the applicant's previous state of residence].~~

(3) An~~[initial]~~ applicant for certification shall have a:

(a) High school diploma, general equivalency diploma (GED), or documentation from a comparable educational entity; or

(b) Commonwealth Child Care Credential in accordance with 922 KAR 2:250.

(4) An applicant shall be currently certified by an agency approved in accordance with 922 KAR 2:240 in infant and child:

(a) Cardiopulmonary resuscitation (CPR); and

(b) First aid.

(5) An adult living in the home of the applicant, present during the hours of operation, or having unsupervised contact with a child in care, and the applicant's assistant shall~~[submit to the cabinet]:~~

(a) Complete background checks in accordance with 922 KAR 2:280~~[A criminal records check pursuant to KRS 17.165(5) by the Kentucky State Police or the Administrative Office of the Courts within one (1) year prior to application;~~

~~(b) A DCC-157 to complete:~~

~~1. A child abuse or neglect check using the central registry in accordance with 922 KAR 1:470; and~~

~~2. An address check of Sex Offender Registry;~~

~~(c) A criminal records check completed once for any previous state of residence if:~~

~~1. The adult resided outside the state of Kentucky in the last five (5) years; and~~

~~2. No criminal records check has been completed for the adult's previous state of residence]; and~~

(b) Submit~~[(d)]~~ a copy of negative tuberculin results or a health professional's statement documenting that the adult is free of active tuberculosis.

(6) If an adult other than an adult listed on the initial application begins living in the provider's home, present during the hours of operation or having unsupervised contact with a child in care, the adult shall submit to background and health checks within thirty (30) calendar days of residence within the household~~[An applicant or assistant who has been convicted of, or entered an Alford or guilty plea to, a non-violent felony or misdemeanor may be approved on a case by case basis with consideration given to the:~~

- ~~(a) Nature of the offense;~~
- ~~(b) Length of time that has elapsed since the event; and~~
- ~~(c) Applicant's life experiences after the conviction, Alford plea, or guilty plea].~~

(7) Upon receipt of a completed application for certification, and a nonrefundable certification fee pursuant to KRS 199.8982(1)(b), cabinet staff shall:

- (a) Review and process the application; and
- (b) Conduct an unannounced inspection of the home pursuant to KRS 199.8982(1)(b), including review of the evacuation plan in accordance with Section 18(7) of this administrative regulation.

(8) If the requirements of 922 KAR 2:280, subsections (1) through (7) of this section~~[, Section 3]~~, and Sections 10 through 19 of this administrative regulation have been met, an applicant shall be certified as described in KRS 199.8982.

(9) Within three (3) months of submission to the cabinet of a complete OIG-DRCC-03, an applicant shall:

- (a) Demonstrate completion of six (6) hours of cabinet-approved training in accordance with KRS 199.8982(1)(a)6; and
- (b) Develop and implement a written plan for obtaining nine (9) hours of annual cabinet-approved training as required in Section 10(1) of this administrative regulation.

(10)(a) A family child-care home certificate shall:

1.~~[(a)]~~ Be displayed in a prominent place, as required by KRS 199.8982(1)(c);

2.~~[(b)]~~ Contain the:

a.~~[4.]~~ Name and address of the child care provider;

b.~~[2.]~~ Maximum number of unrelated children who may be served;

c.~~[3.]~~ Identification number; and

d.~~[4.]~~ Effective and expiration dates; and

3.~~[(e)]~~ Be valid for only the:

a.~~[4.]~~ Name of the individual authorized on the certificate to operate a family child-care home; and

b.~~[2.]~~ Residential address printed on the certificate.

(b) A certified family child-care home whose certificate is suspended or revoked shall:

1. Receive a new certificate indicating that the provider is under adverse action; and

2. Post the new certificate in accordance with paragraph (a) of this subsection.

(11) A change of location shall require:

- (a) A ten (10) calendar day notice;
- (b) A completed OIG-DRCC-03;
- (c) An inspection of the new home; and
- (d) Continued compliance with this administrative regulation.

Section 3. Renewal of Certification. (1) A family child-care certification shall expire~~[be renewed every]~~ two (2) years from the date of issuance unless the certificate holder meets the requirements of subsection (2) of this section. A certificate that expires shall lapse and shall not be subject to appeal.

(2) A family child-care home provider shall submit one (1) month prior to expiration of the

provider's certification:

(a) A completed OIG-DRCC-04, Certified Family Child-Care Home Renewal Form~~[OIG-DRCC-03]~~;

(b) A nonrefundable renewal fee pursuant to KRS 199.8982(1)(b);

(c) A physician's statement documenting that the family child-care home provider's health is satisfactory for continued operation of a family child-care home; and

(d) Proof that the family child-care home provider continues to meet the minimum requirements specified in Sections 2, 3, and 10 through 19 of this administrative regulation.

(3) The cabinet shall:

(a) Review and process the OIG-DRCC-03 submitted in accordance with subsection (2) of this section~~[application]~~;

(b) Conduct an unannounced inspection of the home pursuant to KRS 199.8982(1)(b); and

(c) Approve the family child-care home within fifteen (15) calendar days of receipt of the OIG-DRCC-03 submitted in accordance with subsection (2) of this section~~[application]~~ if the requirements in Sections 2, 3, and 10 through 19 of this administrative regulation are met.

(4) To the extent funds are available, the cabinet ~~shall~~may conduct an annual unannounced inspection of the home pursuant to KRS 199.8982(1)(b) and 42 U.S.C. 9858c(c)(2)(K)~~[annually as a condition of certification renewal]~~.

Section 4. Statement of Deficiency and Corrective Action Plans. (1) If the cabinet finds a provider noncompliant with Sections 2, 3, or 10 through 19 of this administrative regulation, the cabinet or its designee shall complete a written statement of deficiency.

(2) Except for a violation posing an immediate threat, a family child-care home shall submit a written corrective action plan to the cabinet or its designee within ten (10) calendar days from receipt of the statement of deficiency to eliminate or correct the regulatory violation.

(3) A corrective action plan shall include:

(a) Specific action undertaken to correct a violation;

(b) The date action was or ~~shall~~will be completed; ~~and~~

(c) Action utilized to assure ongoing compliance;

(d) Supplemental documentation requested as a part of the plan; and

(e) Signature of the provider and the date of signature.

(4) The cabinet or its designee shall review the plan and notify a family child-care home within thirty (30) calendar days from receipt of a plan, in writing, of the decision to:

(a) Accept the plan;

(b) Not accept the plan; or

(c) Deny, suspend, or revoke the family child-care home's certification in accordance with Section 5, 6, 7, or 8 of this administrative regulation.

(5) A notice of unacceptability shall state the specific reasons a plan was not accepted.

(6) A family child-care home notified of an unaccepted plan shall:

(a) Submit an amended plan within fifteen (15)~~[ten (10)]~~ calendar days of notification; or

(b) Have its certification revoked or denied for failure to:

1. Submit an acceptable amended plan; or

2. Implement corrective measures identified in the corrective action plan.

(7) If a family child-care home fails to submit an acceptable corrective action plan or does not implement corrective measures in accordance with the corrective action plan~~[Following two (2) unacceptable plans of correction in a forty-five (45) calendar day period]~~, the cabinet shall ~~deny~~deny~~[an application for certification]~~ or revoke a provider's certification.

(8) The cabinet shall not review or accept more than three (3) corrective action plans from a family child-care home in response to the same written statement of deficiency.

(9) An administrative regulatory violation reported on a statement of deficiency that poses an immediate threat to the health, safety, or welfare of a child shall be corrected by the family child-care home provider within five (5) working days of notification.

(10)[(9)] The voluntary relinquishment of a family child-care home's certification shall not preclude the cabinet's pursuit of adverse action.

Section 5. Denial of Application for Certification. (1) An application for initial certification[~~or renewal of certification~~] as a family child-care home shall be denied if the applicant, an assistant, or an adult residing in the household[~~:~~]

(a) ~~Has abused or neglected a child according to a check of the central registry in accordance with 922 KAR 1:470;~~

(b) ~~]~~ has a history of behavior that may impact the safety or security of a child in care including:

(a)[4-] A disqualifying criterion or background check result in accordance with 922 KAR 2:280~~[criminal conviction of, or an Alford plea or a plea of guilty to, a sex crime or violent crime in accordance with KRS 17.165;~~

2. ~~A conviction for, or an Alford plea or a plea of guilty to, a drug-related felony, and (5) five years has not elapsed since the person was fully discharged from imprisonment, probation, or parole];~~ or

(b)[3-] Other behavior or condition indicating inability to provide reliable care to a child[~~;~~ or

(c) ~~Is placed on the Sex Offender Registry].~~

(2) An application for certification as a family child-care home provider shall be denied if the applicant or certificate holder:

(a) Fails to comply with the minimum certification standards specified in Sections 10 through 19 of this administrative regulation and KRS 199.8982;

(b) Knowingly misrepresents or submits false information on the application or other form required by the cabinet or its designee;

(c) Refuses, during the hours of operation, access by:

1. A parent of a child in care, the cabinet, the cabinet's designee, or another agency with regulatory authority to:

a. A child in care; or

b. The provider's premises; or

2. The cabinet, the cabinet's designee, or another agency with regulatory authority to the provider's records;

(d) Is placed on a directed plan of correction~~[intermediate sanction]~~ more than two (2) times in a three (3) year period; or

(e) Has been discontinued or disqualified from participation in:

1. The Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020; or

2. Another governmental assistance program due to fraud,~~[or]~~ abuse, or criminal conviction related to[or] that program.

(3) Effect of previous denial or revocation.

(a) If an applicant has had a previous child care registration, certification, license, or permit to operate subject to denial, suspension, revocation, or voluntary relinquishment pending an investigation or adverse action, the cabinet shall grant the applicant a certificate to operate a family child-care home if:

1. A seven (7) year period has expired from the:

a. Date of the prior notice of denial, suspension, or revocation; or

b. Date the certification, license, registration, or permit was voluntarily relinquished as a re-

sult of an investigation or a pending adverse action[;

~~c. Last day of legal remedies being exhausted; or~~

~~d. Date of the Final Order from an administrative hearing]; and~~

2. The applicant has:

a. The proven ability to comply with the provisions of this administrative regulation and KRS 199.8982;

b. Completed, since the time of the prior denial or revocation, sixty (60) hours of cabinet-approved training in developmentally appropriate child care practice; and

c. Not had an application, registration, certificate, license, or permit to operate as a child care provider denied or revoked for:

(i) A disqualifying criterion or background check result in accordance with 922 KAR 2:280~~[Conviction of, or an Alford plea or a plea of guilty to, a sex crime or violent crime in accordance with KRS 17.165;~~

~~(ii) Abuse or neglect of a child according to a child abuse and neglect check of the central registry in accordance with 922 KAR 1:470;~~

~~(iii) Placement on the Sex Offender Registry;~~

~~(iv) Conviction of, or an Alford or guilty plea to, a drug-related felony, and five (5) years has not elapsed since the person was fully discharged from imprisonment, probation, or parole]; or~~

(ii) Discontinuation or disqualification~~[(v) Has been discontinued or disqualified]~~ from participation in~~[- 4-]~~ the Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020~~1[;]~~ or~~2-]~~ another governmental assistance program due to fraud~~1[or]~~ abuse~~, or criminal conviction related to[or]~~ that program.

(b) If a certificate is granted after the seven (7) year period specified in paragraph (a) of this subsection, the provider shall serve a two (2) year probationary period during which the home shall be inspected on at least a quarterly basis.

Section 6. Directed Plan of Correction (DPOC)~~[Intermediate Sanctions]~~. (1) If the cabinet determines that a certified family child-care home provider is in violation of this administrative regulation or 922 KAR 2:280~~[the cabinet may,]~~ based on the severity of the violation, the cabinet:

(a) Shall~~[Require the provider to participate in additional training;~~

~~(b) Increase the frequency of monitoring by cabinet staff;~~

~~(c)] enter into an agreement with the provider directing[detailing] the requirements for remedying a violation and achieving compliance; [or]~~

(b) Shall~~[(d)]~~ notify or require the provider to notify a parent of a child who may be affected by the situation for which a DPOC~~[an intermediate sanction]~~ has been imposed;

(c) Shall increase the frequency of monitoring by cabinet staff to verify the implementation of the DPOC;

(d) May require the certified family child-care home to participate in additional training; and

(e) May amend the agreement with the certified family child-care home if the cabinet identifies an additional violation during the DPOC period.

(2) A DPOC~~[An intermediate sanction]~~ shall result in a suspension or revocation of certification or shall be modified to impose additional requirements if a certified family child-care home provider:

(a) Fails to meet a condition of the DPOC~~[intermediate sanction]~~; or

(b) Violates a requirement of the DPOC~~[an intermediate sanction]~~.

Section 7. Suspension. The cabinet shall take emergency action in accordance with KRS 13B.125~~[- by issuing an emergency order that results in suspension of the operation of a certi-~~

~~ified family child-care home~~. (1) An emergency order issued pursuant to this section shall:

(a) Be served to a certified family child-care home provider in accordance with KRS 13B.050(2); and

(b) Specify the regulatory violation that caused the emergency condition~~[to exist]~~.

(2) Upon receipt of an emergency order, a provider shall surrender the certificate of operation to the cabinet.

(3) The cabinet or its designee and the provider shall make reasonable efforts to:

(a) Notify a parent of each child in care of the suspended provider; and

(b) Refer a parent for assistance in locating alternate child care arrangements.

(4) A certified family child-care home required to comply with an emergency order issued in accordance with this section may submit a written request for an emergency hearing within twenty (20)~~[five (5)]~~ calendar days of receipt of the order to determine the propriety of the certification's suspension.

(5) The cabinet shall conduct an emergency hearing within ten (10) working days of the request for hearing in accordance with KRS 13A.125(3).

(6)(a) Within five (5) working days of completion of the hearing, the cabinet's hearing officer shall render a written decision affirming or reversing~~[, modifying, or revoking]~~ the emergency order to suspend certification.

(b) The emergency order shall be affirmed if there is substantial evidence of an immediate threat to public health, safety, or welfare.

(7) A provider's certification shall be revoked if the[:

~~(a) Provider does not request a hearing within the timeframes established in subsection (6) of this section;~~

~~(b) The emergency order is upheld by the administrative hearing conducted in accordance with KRS Chapter 13B; or~~

~~(c) The]~~ condition that resulted in the emergency order is not corrected within thirty (30) calendar days of service of the emergency order.

Section 8. Revocation.(1) A family child-care home provider's certification shall be revoked if a provider:

(a) Knowingly misrepresents or submits false information on the application or other form required by the cabinet or its designee;

(b) Interferes with a cabinet representative's ability to perform an official duty;

(c) Refuses, during the hours of operation, access by:

1. A parent of a child in care, the cabinet, the cabinet's designee, or another agency with regulatory authority to:

a. A child in care; or

b. The provider's premises; or

2. The cabinet, the cabinet's designee, or another agency with regulatory authority to the provider's records;

(d) Is convicted of, or enters an Alford or guilty plea to, a criminal charge that threatens the health, safety, or welfare of a child in care;

(e) Is unable to operate a family child-care home due to a medical condition;

(f) Does not~~[Is unable to continue to]~~ meet the requirements of KRS 199.8982(1) or Sections 2, 3, and Sections 10 through 19 of this administrative regulation;

(g) Is placed on a directed plan of correction~~[intermediate sanction]~~ more than two (2) times in a three (3) year period; or

(h) Has been discontinued or disqualified from participation in:

1. The Child Care Assistance Program established by 922 KAR 2:160, including an inten-



tional program violation in accordance with 922 KAR 2:020; or

2. Another governmental assistance program due to fraud, ~~[or] abuse, or criminal conviction related to~~ that program.

(2)(a) If the cabinet determines that a condition of subsection (1) of this section exists, the cabinet or its designee shall send a written notice of its intention to revoke the certificate to the family child-care home~~[revocation delivered]~~ by personal service delivery or through certified mail~~[at least thirty (30) calendar days prior to the effective date of the revocation]~~.

(b) Subsequent to the notice provided in accordance with paragraph (a) of this subsection, a family child-care home's failure to request an appeal pursuant to Section 9 of this administrative regulation shall result in the final determination revoking the home's certification.

(3) The notice of revocation shall:

(a) Explain the reason for the revocation;

(b) Specify that the child care provider shall cease operation as a certified family child-care home upon revocation;

(c) Advise the family child-care home provider of the right to request an appeal on an OIG-DRCC-05, Certified Family Child-Care Home Request for Appeal, prior to the effective date of the revocation;

(d) Specify that revocation shall be stayed if an appeal is requested; and

(e) Require the family child-care home provider to surrender the certificate of operation to cabinet staff when the revocation becomes effective.

(4) If a provider's certification has been revoked, the cabinet or its designee and the provider shall make reasonable efforts to:

(a) Notify a parent of each child in care; and

(b) Refer the parent for assistance in locating alternate child care arrangements.

Section 9. Appeal of Denials,~~[Intermediate Sanctions,]~~ Suspension, and Revocation. (1) If the cabinet denies certification,~~[imposes an intermediate sanction,]~~ suspends certification, or revokes certification, the family child-care home provider may request an appeal by completing an OIG-DRCC-05 within twenty (20) calendar days of receipt of the notice of adverse action.

(2) Upon request of the appeal, the provider shall be afforded a hearing in accordance with KRS Chapter 13B.

(3) If a final order from an administrative hearing does not uphold a suspension, the provider may resume providing child care.

Section 10. Standards for the Provider. (1)(a) A provider shall complete annually at least nine (9) hours of cabinet-approved early care and education training beginning with the second year of operation, including one and one-half (1 1/2) hours of cabinet-approved pediatric abusive head trauma training in accordance with KRS 199.8982(2):

1. Within the second year of employment or operation in child care; and

2. Every subsequent five (5) years of employment or operation in child care.

(b) A provider or assistant's compliance with the training in accordance with paragraph (a) of this subsection or subsection ~~(8)~~~~[(9)]~~ of this section shall~~[may]~~ be verified through the cabinet-designed database maintained pursuant to 922 KAR 2:240.

(2) A provider shall not provide care for more unrelated children than the number authorized on the certificate of operation.

(3) A provider shall have an assistant present if the~~[a]~~ provider cares for more than:

(a) Four (4) infants, including the provider's own or related infants; or

(b)~~[, the provider shall have an assistant present. (4) A provider shall not care for more than]~~ Six (6) children under the age of six (6) years old, including the provider's own or related chil-

dren.

(4)~~[(5)]~~ The maximum number of unrelated children in the care of a certified family child-care home provider shall not exceed six (6) at any one (1) time. A provider may care for four (4) related children in addition to six (6) unrelated children for a maximum child care capacity of ten (10) at any one (1) time.

(5)~~[(6)]~~ If a provider operates the in-home child care business for twenty-four (24) consecutive hours, the provider shall:

(a) Receive an eight (8) hour period of respite after working sixteen (16) consecutive hours during a twenty-four (24) hour period; and

(b) Employ an assistant during the period of respite.

(6)~~[(7)]~~ Prior to being left alone with a child, an assistant shall be certified by a cabinet-approved agency in infant and child:

(a) CPR; and

(b) First aid.

(7)~~[(8)]~~ An assistant shall be:

(a) Eighteen (18) years of age or older;

(b) Under ~~direct~~ supervision of a provider;

(c) Used for providing care in a certified family child-care home; and

(d) Used in the absence of the certified provider.

(8)~~[(9)]~~ An assistant used ~~[in the absence of the family child-care home provider]~~ in excess of fourteen (14) calendar days during a one (1) year period shall demonstrate completion of at least nine (9) hours of cabinet-approved training, including:

(a) Six (6) hours of cabinet-approved training in accordance with KRS 199.8982(1)(a)6; and

(b) Pediatric abusive head trauma training pursuant to KRS 199.8982(2), in accordance with subsection (1) of this section.

(9)~~[(40)]~~ If a provider, an assistant, or a member in a provider's household is named as the alleged perpetrator in a child abuse or neglect report accepted by the cabinet in accordance with 922 KAR 1:330, the individual shall be removed from direct contact with a child in care:

(a) For the duration of the ~~[family-in-need-of-services assessment or]~~ investigation; and

(b) Pending completion of an administrative appeal process for a cabinet substantiation of child abuse or neglect in accordance with 922 KAR 1:320 or 922 KAR 1:480.

(10)~~[(41)]~~ During hours of operation, a provider and another person in the home shall:

(a) Be free of the influence of alcohol or a controlled substance except for use of a controlled substance as prescribed by a physician; and

(b) Prohibit smoking or vaping in the presence of children in care.

(11)~~[(42)]~~ During a provider's absence, an assistant shall be physically present with a child in care~~[at the home]~~ during hours of operation.

(12)~~[(43)]~~ A provider shall:

(a) Not be employed outside of the home during regular hours of operation; and

(b) Maintain daily attendance records documenting the arrival and departure time of each child, including records that are required in accordance with 922 KAR 2:160, Section 13, if a child receives services from the provider through the Child Care Assistance Program.

Section 11. The General Requirements of the Family Child-Care Home Environment. (1) A provider's home and each play area used for child care shall:

(a) Be free from risk of harm in accordance with the requirements of this administrative regulation; and

(b) Have adequate:

1. Heating and cooling;

2. Light; and
3. Ventilation.

(2) Each floor level used for child care shall have at least one (1):

- (a) Unblocked exit to the outside;
- (b) Smoke detector;
- (c) Fire extinguisher; and
- (d) Carbon monoxide detector if the home:

1. Uses fuel burning appliances; or
2. Has an attached garage.

~~(3)[A new applicant or a provider who changes location shall have at least two (2) unblocked exits to the outside on each floor level used for child care.~~

(4) The areas of the home that are accessible to children in care shall be free from items harmful to children including the following items:

- (a) Cleaning supplies, poisons, paints, and insecticides;
- (b) Knives, scissors, and sharp objects;
- (c) Power tools, lawn mowers, hand tools, nails, and other equipment;
- (d) Matches, cigarettes, lighters, combustibles, and flammable liquids;
- (e) ~~Alcoholic beverages;~~
- (f) Plastic bags; and
- ~~(f) [(g)]~~ Litter and rubbish.

(4) Alcohol shall:

(a) Not be consumed by any person on the certified family child-care home's premises during hours of operation; and

(b) Be kept out of reach and sight of a child in care.

(5) In accordance with KRS 527.070(1), firearms and ammunition shall be stored away from the presence of children, in separate locked containers, which, in order to be opened, require a:

- (a) Key; or
- (b) Combination.
- (6) Electrical outlets not in use shall be covered.
- (7) An electric fan, floor furnace, or freestanding heater or fireplace shall:
  - (a) Be out of the reach of a child; or
  - (b) Have a safety guard to protect a child from injury.
- (8) A certified family child-care home shall have:

(a) At least one (1) accessible and working~~[(and line)]~~ telephone on each level used for child care while a child in care is present on that level~~[(unless the cabinet has been notified that the telephone is temporarily out of service)]~~; and

(b) A list of emergency numbers posted on each level used for child care or maintained in the contacts of~~[(by)]~~ each telephone, including numbers for the:

1. Police;
2. Fire station;
3. Emergency medical care and rescue squad; and
4. Poison control center.

(9) Equipment and toys shall be:

(a) Designated by the manufacturer as developmentally appropriate to the age of children in care;

(b) In sufficient quantity for the number of children in care; and

(c) Safe, sound, clean, and in good repair.

(10) Stairs and steps used for children in care shall be:

- (a) Solid;
- (b) Safe; and
- (c) Railed.

(11) If an infant or toddler is in the care of a provider, indoor stairs with more than two (2) steps shall be blocked.

(12) Exclusive of the bathroom and storage area, an indoor area, including furnishings, used for child care shall contain at least thirty-five (35) square feet per child for:

- (a) Play; and
- (b) Activities that meet the developmental needs of the children in care.

(13) An outdoor play area shall be free of unavoidable danger or risk.

(14) Each child in an outdoor play area shall be under the direct supervision of the provider or assistant.

(15) Outdoor stationary play equipment shall be:

- (a) Securely anchored;
- (b) Developmentally appropriate; and
- (c) Safe.

(16) A trampoline shall not be accessible to a child in the care of a provider.

(17) A swimming pool on the premises shall:

- (a) Be maintained and free of debris and body waste;
- (b) Have a water filtering system or be emptied daily;
- (c) Be supervised when in use; and
- (d) Be inaccessible to a child~~[children]~~ when not in use.

(18) An above-ground pool shall have:

- (a) A stationary wall no less than four (4) feet tall; and
- (b) Hand holds or foot holds that are inaccessible when the pool is not in use.

(19) A fire drill shall be:

- (a) Conducted during hours of operation at least monthly; and
- (b) Documented.

(20) An earthquake drill and a tornado drill shall be:

- (a) Conducted during hours of operation at least quarterly; and
- (b) Documented.

(21) A family child-care home shall:

- (a) Be clean;
- (b) Be uncluttered;
- (c) Be free of insects and rodents;
- (d) Have a water supply that is:

- 1. Potable;
- 2. Adequate; and
- 3. From an approved public water supply; and

(e) Have bathrooms, including toilets, sinks, and potty chairs that are:

- 1. Sanitary; and
- 2. In good working condition.

(22) Windows, doors, and outer openings shall be screened to prevent the entrance of vermin.

(23) Indoor and outdoor garbage shall be stored in a waterproof container with a tight-fitting cover.

(24) Playpens and play yards shall:

(a) Meet the federal standards as issued by the Consumer Product Safety Commission, including 16 C.F.R. 1221;

- (b) Be manufactured for commercial use; and
- (c) Not be used for sleeping or napping.

Section 12. Care Requirements for a Provider. (1) A provider shall ensure the health, safety, and comfort of each child.

(2)(a) Care for a child with a special need shall be consistent with the nature of the need as documented by the child's health professional.

(b) A child may include a person eighteen (18) years of age if the person has a special need for which child care is required.

(3) Television or video viewing by a child shall be limited to:

- (a) Two (2) hours daily;
- (b) The planned program activities; and
- (c) Developmentally appropriate child-related content, as designated by standardized content guidelines.

(4) A child shall:

(a) Wash hands with liquid soap and warm running water:

1. ~~[(a)]~~ Before and after eating or handling food;

2. ~~[(b)]~~ After toileting or diaper change;

3. ~~[(c)]~~ After handling animals;

4. ~~[(d)]~~ After wiping or blowing nose;

~~[(e)]~~ After touching an item or an area of the body ~~[items]~~ soiled with body fluids or waste; and

5. ~~[(f)]~~ After outdoor and indoor play time; or

(b) Use hand sanitizer or hand-sanitizing wipes if liquid soap and warm running water are not available in accordance with paragraph (a) of this subsection. The child shall wash the child's hands as soon as practicable once liquid soap and warm running water are available.

(5) A provider and an assistant shall:

(a) Wash hands with liquid soap and warm running water:

1. Before and after diapering a child;
2. Before and after feeding a child;
3. After toileting or assisting a child with toileting;
4. After handling animals;
5. Before dispensing medication;
6. After caring for a sick child; ~~and~~
7. After wiping or blowing a child's or own nose; and
8. After smoking or vaping; or

(b) Use hand sanitizer or hand-sanitizing wipes if liquid soap and warm running water are not available in accordance with paragraph (a) of this subsection. The provider or assistant shall wash the provider or assistant's hands as soon as practicable once liquid soap and warm running water are available.

(6) A provider shall assure that a child does not share:

(a) ~~[(1)]~~ Cups;

(b) ~~[(2)]~~ Eating utensils;

(c) ~~[(3)]~~ Wash cloths;

(d) ~~[(4)]~~ Towels; and

(e) ~~[(5)]~~ Toiletry items.

(7) ~~[(6)]~~ An infant shall sleep and nap on the infant's back unless the infant's health professional signs a waiver that states the infant requires an alternate sleeping position.

(8) ~~[(7)]~~ Rest time shall be provided for each child who is not school-age and who is in care for more than four (4) hours.

~~(9)~~~~(8)~~ Rest time shall include adequate space specified by the child's age as follows:

(a) For an infant:

1. An individual non-tiered crib that meets Consumer Product Safety Commission standards established in 16 C.F.R. 1219-1220;
2. A firm crib mattress in good repair with a clean tight-fitted sheet that is changed:
  - a. Weekly; or
  - b. Immediately if it is soiled or wet;
3. No loose bedding, such as a bumper or a blanket; and
4. No toys or other items except for the infant's pacifier; or

(b) For a toddler or preschool-age child:

1. An individual bed, a two (2) inch thick waterproof mat, or cot in good repair; and
2. Bedding that is in good repair and is changed:
  - a. Weekly; or
  - b. Immediately if it is soiled or wet.

~~(10)~~~~(9)~~ Rest time shall not exceed two (2) hours for a preschool-age child unless the child is attending nontraditional hours or is sick.

~~(11)~~~~(10)~~ A child who does not sleep shall be permitted to play quietly and be visually supervised.

~~(12)~~~~(11)~~ If overnight care is provided, a provider or an assistant shall:

- (a) Remain awake until every child in care is asleep; and
- (b) Sleep on the same floor level of the home as an infant or toddler.

~~(13)~~~~(12)~~ A certified family child care home shall provide a daily planned program:

(a) That is available to a parent of a child in care or the cabinet upon request~~[Posted in writing in a conspicuous location];~~

(b) Of activities that are~~[individualized and]~~ developmentally appropriate for each child served;

(c) That provides experience to promote the individual child's physical, emotional, social, and intellectual growth and well-being; and

(d) That offers a variety of creative activities, such as~~[including]~~:

1. Art or music;
2. Math or numbers~~[Music]~~;
3. Dramatic play;
4. Stories and books;
5. Science or nature;
6. Block building or stacking;
7. Tactile or sensory activity;
8. Multi-cultural exposure~~[Culture]~~;
9. Indoor or outdoor play in which a child makes use of both small and large muscles;
10. A balance of active and quiet play, including group and individual activity; and
11. An opportunity for a child to:
  - a. Have some free choice of activities;
  - b. If desired, play apart from the group at times; and
  - c. Practice developmentally appropriate self-help procedures in respect to:
    - (i) Clothing;
    - (ii) Toileting;
    - (iii) Hand-washing; and
    - (iv) Eating.

~~(14)~~~~(13)~~ Except for a school-aged child whose parent has given written permission and whose whereabouts are known, a child shall not be permitted off the premises of a family child-

care home without a caregiver.

~~(15)~~[(44)] Use of corporal physical discipline shall be prohibited pursuant to KRS 199.896(18).

~~(16)~~[(15)] A child shall be released from a family child-care home to:

- (a) The child's custodial parent;
- (b) The person designated in writing by the parent to receive the child; or
- (c) In an emergency, a person designated over the telephone by the parent.

Section 13. Toilet and Diapering Requirements. (1) A toilet room shall:

- (a) Have an adequate supply of toilet paper; and
  - (b) Be cleaned and sanitized daily.
- (2) A sink shall be:
- (a) Located near or in close proximity~~[or immediately adjacent]~~ to toilets;
  - (b) Equipped with hot and cold running water that allows for hand washing;
  - (c) Equipped with hot water at a minimum temperature of ninety (90) degrees Fahrenheit and a maximum of 120 degrees Fahrenheit;
  - (d) Equipped with liquid soap and single use, disposable hand drying material;
  - (e) Equipped with an easily cleanable, covered waste receptacle; and
  - (f) Near or in close proximity~~[Immediately adjacent]~~ to a changing area used for infants and toddlers.
- (3) Each toilet shall:
- (a) Be kept in clean condition;
  - (b) Be kept in good repair;
  - (c) Be in a lighted room; and
  - (d) Have ventilation.
- (4) Toilet training shall be coordinated with the child's parent.
- (5) An adequate quantity of freshly laundered or disposable diapers and clean clothing shall be available.
- (6) If a toilet training chair is used, the chair shall be:
- (a) Emptied promptly; and
  - (b) Sanitized after each use.
- (7) Diapers or clothing shall be:
- (a) Changed when soiled or wet;
  - (b) Stored in a covered leak proof container temporarily; and
  - (c) Washed or disposed of at least once a day.
- (8) The proper methods of diapering and hand-washing shall be available~~[posted]~~ at each diaper changing area.
- (9) If a child is being diapered, the child shall:
- (a) Not be left unattended; and
  - (b) Be placed on a surface that is:
    - 1. Clean;
    - 2. Padded;
    - 3. Free of holes, rips, tears, or other damage;
    - 4. Nonabsorbent;
    - 5. Easily cleaned; and
    - 6. Free of items not used for diaper changing.
- (10) Unless another cleaning method is authorized by the child's parent or prescribed by a physician, individual disposable washcloths shall be used to thoroughly clean the affected area of a~~[the]~~ child.

(11) A provider or an assistant shall disinfect the diapering surface after each child is diapered.

(12) If a provider or an assistant wear disposable gloves, the gloves shall be changed and disposed of after each child is diapered.

Section 14. Food Requirements. (1) A provider and an assistant shall:

(a) Use sanitary procedures when preparing and serving food;

(b) Refrigerate perishable food and beverages; and

(c) Serve:

1. Breast milk or iron-fortified formula to a child;

a. Age birth to twelve (12) months; or

b. Beyond twelve (12) months of age as documented by the parent or the child's physician;

2. Pasteurized whole milk to a child age twelve (12) months to twenty-four (24) months; or

3. Pasteurized skim or low fat one (1) percent milk to a child age twenty-four (24) months to school-age.

(2) Water shall be:

(a) Available to a child in care; and

(b) Served in addition to meal requirements if a child requests throughout the day.

(3) A certified family child-care home shall offer each child the same food items unless the child's parent or health professional documents a dietary restriction that necessitates an alternative food item for the child.

(4) Second servings shall be available to a child.

(5) Food shall not be:

(a) Used for:

1. Reward; or

2. Discipline~~[Punishment]~~; or

(b) Withheld until all other food items are consumed.

(6) Meals shall:

(a) Be served in an amount appropriate to the age of the child;

(b) Include appropriate types of food according to the age of the child;~~[and]~~

(c) Not be served during television or video viewing;

(d) Be served every two (2) to three (3) hours; and

(e) Be served to a child:

1. Seated with sufficient room to manage food and tableware; and

2. Supplied with individual eating utensils designed for use by a child.

(7) Breakfast shall include:

(a) Milk;

(b) A whole grain or an enriched grain bread; and

(c) Fruit, vegetable, or 100 percent juice.

(8) A snack shall include two (2) of the following:

(a) Milk;

(b) Protein source;

(c) Fruit, vegetable, or 100 percent juice; or

(d) A whole grain or an enriched grain bread.

(9) Lunch and dinner shall include:

(a) Milk;

(b) Protein source;

(c) 1. Two (2) vegetables;

2. Two (2) fruits; or



3. One (1) fruit and one (1) vegetable; and
- (d) A whole grain or an enriched grain bread.
- (10) A weekly menu shall be:
  - (a) Prepared;
  - (b) Dated;
  - (c) Available to a parent of a child in care or the cabinet upon request~~[Posted in a conspicuous place]~~; and
  - (d) Kept on file for thirty (30) calendar days.
- (11) Substitutions to a~~posted~~ weekly menu shall be noted on the day the meal is served.
- (12) Unless provided as part of the fee for child care or the provider is a participant in the food program, an infant's formula shall be prepared, labeled, and provided by the parent.
- (13) Each child's bottle shall be:
  - (a) Labeled;
  - (b) Covered; and
  - (c) Refrigerated.
- (14) The refrigerator shall:
  - (a) Be in working order; and
  - (b) Maintain a product temperature at or below forty-five (45) degrees Fahrenheit.
- (15) Except if thawed for preparation or use, frozen food shall be kept at a temperature of zero degrees Fahrenheit as verified by a thermometer in the freezer.
- (16) While bottle-feeding an infant, the:
  - (a) Child shall be held; and
  - (b) Bottle shall not be:
    1. Propped;
    2. Left in the mouth of a sleeping infant; or
    3. Heated in a microwave.
- (17) A certified family child-care home shall meet requirements of subsections (1)(c) and (7) through (9) of this section if the provider participates in the Child and Adult Food Care Program and meets meal requirements specified in 7 C.F.R. 226.20.

Section 15. Medication and First Aid. (1) Medication, including medicine that requires refrigeration, shall be stored in a locked container or area with a lock unless the medication is:

- (a) A first aid supply. A first aid supply shall be maintained in accordance with subsection (4) of this section;
  - (b) Diaper cream, sunscreen, or toothpaste. Diaper cream, sunscreen, or toothpaste shall be inaccessible to a child in care;
  - (c) An epinephrine auto-injector. In accordance with KRS 199.8951:
    1. An epinephrine auto-injector shall be inaccessible to a child in care;
    2. A certified family child-care home provider shall have training on the administration of an epinephrine auto-injector if the provider maintains an epinephrine auto-injector for a child;
    3. A certified family child-care home shall seek emergency medical care for a child if an auto-injector is administered to a child; and
    4. A certified family child-care home shall report to the child's parent and the cabinet in accordance with subsection (6) of this section and Section 19(10) of this administrative regulation if an epinephrine auto-injector is administered to a child; or
  - (d) An emergency or rescue medication for a child in care, such as medication to respond to diabetic or asthmatic condition, as prescribed by the child's physician. Emergency or rescue medication shall be inaccessible to a child in care.
- (2) Prescription and nonprescription medication shall be administered to a child in care;

(a) With a[~~daily~~] written request of the child's parent or the child's prescribing health professional; or

(b) In accordance with KRS 311.646.

(3) Prescription and nonprescription medications shall be:

(a) Labeled; and

(b) Administered according to directions or instructions on the label.

(4) A provider shall:

(a) Maintain first aid supplies that are easily accessible for use in an emergency, and these supplies shall be inaccessible to the children in care; and

(b) Wash superficial wounds with soap and water before bandaging.

(5) First aid supplies shall include a fully-equipped first aid kit containing the following non-expired items:

(a)[~~Liquid soap~~;

~~(b)~~] Adhesive bandages;

~~(b)~~[~~(c)~~] Sterile gauze;

~~(c)~~[~~(d)~~] Medical tape;

~~(d)~~[~~(e)~~] Scissors;

~~(e)~~[~~(f)~~] Thermometer;

~~(f)~~[~~(g)~~] Flashlight;

~~(h)~~ Cold pack;

~~(i)~~ First-aid book;

~~(j)~~] Disposable gloves; and

~~(g)~~[~~(k)~~] CPR mouthpiece.

(6) A provider shall provide immediate notification of a medical emergency to a child's:

(a) Parent; or

(b) Emergency contact[~~Family physician~~], if the parent is unavailable.

(7) A quiet, separate area that is easily supervised shall be provided for a child too sick to remain with other children.

(8) A provider and an assistant shall:

(a) Be able to recognize symptoms of childhood illnesses;

(b) Be able to provide basic first aid; and

(c) Maintain a child care program that assures affirmative steps are taken to protect children from abuse or neglect pursuant to KRS 600.020(1).

Section 16. Animals. (1) An animal shall not be allowed in the presence of a child in care:

(a) Unless:

1. The animal is under the supervision and control of an adult;

2. Written parental consent has been obtained; and

3. The animal is certified as vaccinated against rabies; or

(b) Except in accordance with subsection (3) of this section.

(2) A parent shall be notified in writing if a child has been bitten or scratched by an animal.

(3) An animal that is considered undomesticated, wild, or exotic shall not be allowed at a certified family child-care home unless the animal is:

(a) A part of a planned program activity led by an animal specialist affiliated with a zoo or nature conservatory; and

(b) In accordance with 301 KAR 2:081 and 301 KAR 2:082.

Section 17. Transportation. (1) If transportation is provided or arranged by the certified family child-care home provider, the provider shall:

- (a) Have written permission from a parent to transport his or her child;
- (b) Have a car or van equipped with seat belts;
- (c) Require that a child:
  1. Be restrained in an appropriate safety seat meeting state and federal motor vehicle safety standards in accordance with KRS 189.125 and 49 C.F.R. 571.213;
  2. Remain seated while the vehicle is in motion; and
  3. If under thirteen (13) years of age, be transported in the back seat;
- ~~(d) Have a valid driver's license issued by the Division of Motor Vehicles;~~
- ~~(e)]~~ Have emergency and identification information about each child in the vehicle if children are being transported; and
- ~~(e)](f)]~~ Conform to state laws pertaining to vehicles, driver's license, and insurance pursuant to KRS 186.020.
- (2) A child shall not be left unattended:
  - (a) At the site of aftercare delivery; or
  - (b) In a vehicle.
- (3) A child shall not be left in a vehicle while it is being repaired.
- (4) The back of a pickup truck shall not be used to transport a child.
- (5) Firearms, ammunition, alcohol, or illegal substances shall not be transported in a vehicle transporting children.
- (6) A vehicle shall not transport children and hazardous materials at the same time.
- (7) A vehicle transporting a child shall have the headlamps on.
- (8) If the driver is not in the driver's seat, the:
  - (a) Engine shall be turned off;
  - (b) Keys shall be removed; and
  - (c) Emergency brake shall be set.
- (9) A driver of a vehicle transporting a child for a certified provider shall:
  - (a) Be at least twenty-one (21) years old;
  - (b) Complete:
    1. The background checks described in Section 2(2)(c)5 or 2(5) of this administrative regulation; and
    2. An annual check of the:
      - a. Kentucky driver history records in accordance with KRS 186.018; or
      - b. Driver history records through the state transportation agency that issued the driver's license;
      - (c) Hold a current driver's license that has not been suspended or revoked during the last five (5) years; and
      - (d) Not caused an accident which resulted in the death of a person.
  - (10) Based on the harm, threat, or danger to a child's health, safety, and welfare, the cabinet shall pursue an adverse action in accordance with Section 5, 6, 7, or 8 of this administrative regulation:
    - (a) For a violation of this section; or
    - (b) If the provider:
      1. Fails to report an accident in accordance with Section 19(10)(a) of this administrative regulation; or
      2. Transports more passengers than the vehicle's seating capacity and safety restraints can accommodate.

**Section 18. Records.** (1) A provider shall maintain:

- (a) A current immunization certificate for each child in care within thirty (30) days of the

child's enrollment, unless an attending physician or the child's parent objects to the immunization of the child pursuant to KRS 214.036;

(b) A written record for each child:

1. Completed and signed by the child's parent;

2. Retained on file on the first day the child attends the family child-care home; and

3. To contain:

a. Identifying information about the child, which includes, at a minimum, the child's name, address, and date of birth;

b. Contact information to enable the provider to contact the child's:

(i) Parent at the parent's home or place of employment;

(ii) Family physician; and

(iii) Preferred hospital;

c. The name of each person who is designated in writing to pick-up the child;

d. The child's general health status and medical history including, if applicable:

(i) Allergies;

(ii) Restriction on the child's participation in activities with specific instructions from the child's parent or health professional; and

(iii) Permission from the parent for third-party professional services in the family child-care home;

e. The name and phone number of each person to be contacted in an emergency situation involving or impacting the child;

f. Authorization by the parent for the provider to seek emergency medical care for the child in the parent's absence; and

g. A permission form for each trip away from the family child-care home signed by the child's parent in accordance with Section 17(1) of this administrative regulation; and

(c) Daily attendance records documenting the arrival and departure time of each child, including records that are required in accordance with 922 KAR 2:160, Section 13, if a child receives services from the provider through the Child Care Assistance Program.

(2) A certified family child-care home provider shall maintain the confidentiality of a child's records.

(3) The cabinet shall provide, upon request, public information pursuant to KRS 199.8982(1)(d) and (e).

(4) A certified family child-care home provider shall:

(a) Report an incident of suspected child abuse or neglect pursuant to KRS 620.030(1); and

(b) Provide the cabinet access and information in the completion of the investigation pursuant to KRS 620.030(4).

(5) A certified family child-care home provider shall maintain a written record of:

(a) Quarterly practiced earthquake drills and tornado drills detailing the date, time, and participants in accordance with Section 11(20) of this administrative regulation;

(b) Monthly practiced fire drills detailing the date, time, and participants in accordance with Section 11(19) of this administrative regulation; and

(c) Reports to the cabinet that are required in accordance with Section 19(10) of this administrative regulation.

(6) A certified family child-care home provider shall keep all records for five (5) years.

(7)(a) A certified family child-care home provider shall have a written evacuation plan in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to a child in care in accordance with KRS 199.895.

(b) The cabinet shall post an online template of an evacuation plan that:

1. Fulfills requirements of KRS 199.895;

2. Is optional for an applicant or a family child-care home's use; and
3. Is available to an applicant or a family child-care home without charge.

Section 19. Certified Family Child-Care Home Program. The certified family child-care home provider shall:

- (1) Develop written information that specifies the:
  - (a) Rate for child care;
  - (b) Expected frequency of payment for the program;
  - (c) Hours of operation; and
  - (d) Policy regarding:
    1. Late fees;
    2. Holidays;
    3. Vacation;
    4. Illness; and
    5. Emergency pick up;
  - (2) Make available a copy of the certification standards to each parent;
  - (3) Provide each parent with the name, address, and telephone number of the cabinet for the purpose of registering a complaint if the parent believes the family child-care home provider is not meeting the standards;
  - (4) Post and provide to each parent a copy of children and parent rights, as required by KRS 199.898;
  - (5) Allow a parent, the cabinet, the cabinet's designee, or another agency with regulatory authority access to the family child-care home at any time a child is in care;
  - (6) Communicate with each child's parent about the child's:
    - (a) Development;
    - (b) Activities;
    - (c) Likes; and
    - (d) Dislikes;
  - (7) Make available to a parent upon request~~[Post in a prominent area in the home]~~:
    - (a) The staff to child ratios described in Section 10 of this administrative regulation;
    - (b) The planned program of activities;
    - (c) Each statement of deficiency issued by the cabinet during the current certification period;
    - (d) Each plan of correction submitted by the certified family child-care home to the cabinet during the current certification period; and
    - (e) Daily schedule including any trips outside the family child-care home;
  - (8) Coordinate at least one (1) annual activity involving parental or family participation;
  - (9) Maintain a written child care agreement with each child's parent, including the name of each person designated by the parent to pick up the child; and
  - (10) Report:
    - (a) The following to the cabinet within twenty-four (24) hours from the time of discovery:
      1. A communicable disease, which shall also be reported to the local health department pursuant to KRS 214.010;
      2. An accident or injury to a child that requires medical care;
      3. An incident that results in legal action by or against the family child-care home that:
        - a. Affects:
          - (i) A child in care;
          - (ii) The provider;
          - (iii) An assistant; or
          - (iv) A member of the provider's household; or

- b. Includes the provider's discontinuation or disqualification from a governmental assistance program due to fraud, ~~or~~ abuse, or criminal conviction related to~~or~~ that program;
- 4. An incident involving fire or other emergency, including a vehicular accident when the provider is transporting a child receiving child care services; or
- 5. A report of child abuse or neglect that:
  - a. Has been accepted by the cabinet in accordance with 922 KAR 1:330; and
  - b. Names the alleged perpetrator as the:
    - (i) Provider;
    - (ii) Provider's assistant; or
    - (iii) Member of the provider's household;
  - (b) The death of a child to the cabinet within one (1) hour; ~~or~~
  - (c) Temporary or permanent closure as soon as practicable to the cabinet and the parent of a child in the family child-care home; or
  - (d) A child care staff member meeting a disqualifying criterion or background check result in accordance with 922 KAR 2:280.

Section 20. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) ~~["DCC-157, Certified Family Child-Care Home Central Registry Check", edition 4/13;~~
- ~~(b)] "OIG-DRCC-03, Initial Certification Application for Family Child-Care Home", 2018~~~~[edition 7/13]; [and]~~
- (b) "OIG-DRCC-04, Certified Family Child-Care Home Renewal Form", 2018; and
- (c) "OIG-DRCC-05, Certified Family Child-Care Home Request for Appeal", 2018~~[edition 8/3/12]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community-Based Services, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ADRIA JOHNSON, Commissioner

SCOTT W. BRINKMAN, Acting Secretary

APPROVED BY AGENCY: February 12, 2018

FILED WITH LRC: February 14, 2018 at 10 a.m.

CONTACT PERSON: Laura Begin, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone 502-564-6746, fax 502-564-2767, email [Laura.Begin@ky.gov](mailto:Laura.Begin@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact persons: Elizabeth Caywood, phone (502) 564-3703, email [Elizabeth.Caywood@ky.gov](mailto:Elizabeth.Caywood@ky.gov); and Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes standards for a certified family child-care home.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish minimum standards for certified family child-care homes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes through its establishment of standards for certification as a family child-care home.

(d) How this administrative regulation currently assists or will assist in the effective admin-

istration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the requirements for a certified family child-care home.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation clarifies numerous provisions and eliminates others due to public comments received and agency reviews conducted as a result of the Red Tape Reduction initiative, including feeding and meal requirements and access to hygiene products. In addition, the administrative regulation assures more consistent terminology use, clarifies due process for emergency suspensions and correction action, replaces intermediate sanctions with directed plans of correction, updates and clarifies renewal requirements, aligns the administrative regulation with the Child Care and Development Fund's 2014 federal reauthorization and other concurrent regulatory changes, requires hand-washing by staff after smoking or vaping, and incorporates epi-pen allowances authorized by 2016 Ky. Acts ch. 122. Lastly, the amendment also makes technical corrections in accordance with KRS Chapter 13A, including conforming corrections to incorporated material and notice requirements.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to better support the health, safety, and welfare of children in care; reduce "red tape" for providers; incorporate statutory requirements and changes that have occurred since the administrative regulation's last amendment; and ensure congruency among the administrative regulations governing certified family child-care homes.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment to this administrative regulation conforms to the content of the authorizing statutes by clarifying and enhancing minimum requirements to foster provider integrity and to protect the health, safety, and welfare of children cared for by certified family child-care home providers.

(d) How the amendment will assist in the effective administration of the statutes: The amendments to this administrative regulation will assist in the effective administration of the statutes by preserving and enhancing the quality of certified family child-care home standards in a manner congruent with recognized practice and other provider types' standards, and supportive of integrity in the child care community.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An applicant for a certified family child-care home or an existing provider will be impacted by this administrative regulation. As of last November 22, 2017, there were 263 certified family child-care homes operating in Kentucky.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Given the new federally mandated background check requirements applicable to certified family child-care homes, the cabinet has attempted to avoid any further impact on regulated entities, but rather, has attempted to clarify provisions of this administrative regulation and be responsive to the recently enacted legislation and the Red Tape Reduction comments and agency reviews.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The administrative regulation will result in no new or additional cost to regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Certified family child-care homes and children in their care will benefit from the clarity and specificity provided in this administrative regulation and new permissions afforded.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The amendment to this administrative regulation will not result in any new initial costs to the administrative body.

(b) On a continuing basis: The amendment to this administrative regulation will not result in any new continuing costs for the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Child Care and Development Fund Block Grant, state match and maintenance of effort for the block grant, and limited agency funds support the direct implementation of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding required as a result of this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees, or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied, because this administrative regulation will be applied in a like manner statewide.

#### FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 16 C.F.R. 1219, 1220, 1221, 45 C.F.R. 98.2, 49 C.F.R. 571.213, 20 U.S.C. 6081-6084, 42 U.S.C. 9857-9858g

(2) State compliance standards. KRS 194A.050(1), 199.8982(1)(f)

(3) Minimum or uniform standards contained in the federal mandate. The provisions of the administrative regulation comply with the federal mandate.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose stricter, additional or different responsibilities or requirements than those required by the federal mandate.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter, additional or different responsibilities or requirements than those required by the federal mandate.

#### FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services is impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 199.8982(1)(f), 16 C.F.R. 1219, 1220, 1221, 45 C.F.R. 98.2, 49 C.F.R. 571.213, 20 U.S.C. 6081-6084, 42 U.S.C. 9857-9858g

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment to this administrative regulation will generate no revenue in the first year.



(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment to this administrative regulation will generate no revenue in the subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to administer this program in the first year.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs to administer this program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: